THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4649 OF 2006

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Dated: 09-03-2006

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Between

Y. Srinivas Reddy,

S/o. Sri Malla Reddy,

R/o. Flat No.205,

2nd Floor, Chandragupta

Towers, West Marredpally,

Secunderabad, now

Temporarily residing at

Madala, Sathenapalli,

Guntur District.

...PETITIONER

AND

The Mandal Revenue Officer,

Gatkesar Mandal, R.R. District.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the proceedings of the respondent in No.B1/939/05 dated 20.05.2005 as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the absolute owner in possession and enjoyment of the land admeasuring Ac.2-21½ guntas in Sy.No.324/A situated at Prathapasingaram Village, Gatkesar Mandal, Ranga Reddy District having purchased the same from its pattedar and title holder one

Sri Andhe Mallaiah vide registered sale deed document No.482/98 dated 16.02.1998 registered in the office of the Sub-Registrar, Gatkesar, Ranga Reddy District and his vendor was holding the pattedar passbook and title deed vide Pass Book No.120524/41024, Patta No.145. He further submits that the respondent vide proceedings No.B/243/98 dated 12.03.1998 mutated the name of the petitioner and thereafter issued pattedar passbook and title deed to the petitioner.

While so, the impugned proceedings No.B1/939/2005 dated 20.05.2005 under Section 4(1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') was issued by the respondent alleging that Form-I was issued to the assignees and purchasers under Sub-Section (2) of Section 3 of the Act as to why they should not be summarily evicted from the land in question and the said notice was received by Ande Mallaiah on behalf of the assignee but the same could not be served on the petitioner on the ground that he is not available in the village and therefore, Form-I notice was affixed on the notice board of the Gram Panchayat office on 16.03.2005. As the assignees or the purchasers submitted no applications, orders were passed directing eviction of petitioner and taking possession and restoration of the said land and for resumption of the said land to the Government.

Learned counsel for the petitioner further submits that pursuant to the purchase of the said land vide registered document the said documents have been produced before the Mandal Revenue Officer, who issued pattedar passbook and title deed in favour of the petitioner, therefore, it is incorrect to state that the address of the petitioner is not available and he is not available in the village.

He further submits that affixture of the notice on the notice board of the Gram Panchayat does not satisfy the requirement of Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short 'the Rules'). The learned counsel further submits that as per the judgment of this Court in W.P.No.2588 of 1977 dated 25.07.1979 reported in 1979 (2) APLJ NOC 61, the authorities cannot pass orders evicting the persons, under Section 4(a) of the Act, without issuing a notice.

Here is the case where notice has been issued to the petitioner but due to non-availability of the petitioner in the village the same has been affixed on the notice board of the Gram Panchayat.

Whether proper procedure has been followed while issuing notice under Rule 3 of the Rules is a matter to be decided by the appellate authority, as there is a right of appeal available to the petitioner under Section 4(A) of the act before the Revenue Divisional Officer.

Having regard to the facts and circumstances of the case but without expressing any opinion on the merits of the case,

the petitioner is permitted to file an appeal before the concerned Revenue Divisional Officer within ten days from the date of receipt of a copy of this order under Section 4(A) of the Act and on such an appeal, if any, being filed the same may be considered and disposed of in accordance with law giving reasonable opportunity to the petitioner and until the appeal is disposed of status quo obtaining as on today shall be maintained.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 9, 2006

DSK